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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/289,576 04/10/99 ALLEN

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EXAMINER

HM12/1004

MORRISON & FOERSTER  
755 PAGE MILL ROAD  
PALO ALTO CA 94304-1018

PAPER A  
ART UNIT

PAPER NUMBER

1632  
DATE MAILED:

7  
10/04/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.  
**09/289,576**

Applicant(s)

**Allen et al.**

Examiner  
**Anne-Marie Baker, Ph.D.**

Group Art Unit  
**1632**



- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire   1   month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

- ☒ Claim(s)   1-43   is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims   1-43   are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### DETAILED ACTION

Claims 1-43 are pending in the instant application.

#### *Election/Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18 and 37-43, drawn to a method for treating negative symptoms of schizophrenia, a pharmaceutical composition comprising therapeutic cells, and a kit comprising therapeutic cells, classified in class 424, subclass 93.1.
- II. Claims 19-35 and 37-43, drawn to a method for treating extrapyramidal side effects produced by antipsychotic drugs, a pharmaceutical composition comprising therapeutic cells, and a kit comprising therapeutic cells, classified in class 424, subclass 93.1.
- III. Claims 36-43, drawn to a method for improving cognitive deficits associated with schizophrenia, a pharmaceutical composition comprising therapeutic cells, and a kit comprising therapeutic cells, classified in class 424, subclass 93.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and each of inventions II and III are patentably distinct because the inventions are drawn to methods of treating distinct deficits, wherein the methods produce different effects. The method of the invention of Group I involves treating the negative symptoms of schizophrenia, while the method of the invention of Group II involves treating the extrapyramidal side effects produced by antipsychotic drugs and the method of the invention of Group III involves improving cognitive deficits. A search for the method of

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the invention of Group I would not necessarily uncover art relating to the methods of the inventions of Groups II and III. Thus, the method of the invention of Group I is patentably distinct from the methods of the inventions of Groups II and III.

Inventions II and III are patentably distinct because the inventions are drawn to methods of treating distinct deficits, wherein the methods produce different effects. The method of the invention of Group II involves treating the extrapyramidal side effects produced by antipsychotic drugs, while the method of the invention of Group III involves improving cognitive deficits. A search for the method of the invention of Group II would not necessarily uncover art relating to the methods of the invention of Group III. Thus, the method of the invention of Group II is patentably distinct from the method of the invention of Group III.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their recognized divergent subject matter and because the searches required for the separate inventions are not coextensive, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne-Marie Baker whose telephone number is (703) 306-9155. The examiner can normally be reached Monday through Thursday and alternate Fridays from 9:00 AM to 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karen Hauda, can be reached on (703) 305-6608. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-8724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Anne-Marie Baker, Ph.D.

Anne-Marie Baker  
Patent Examiner